THE HONOURABLE SRI JUSTICE L.NARASIMHA REDDY

W.P.NOs.25576, 27371 to 27378, 27478, 27481, 27482, 27485, 27486, 27488 to 27490, 27496, 27763, 27768, 27770 and 2775 OF 2005

DATED 28.12.2005

BETWEEN:

M/s.Neuland Laboratories Limited … Petitioner

And

1. The Presiding officer, Labour Court-II,

Hyderabad and others. … Respondents

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COMMON ORDER:

In this batch of writ petitions, the petitioner, which is an industrial establishment, challenges the orders passed by the Labour Court-II, Hyderabad in various industrial disputes.

The workmen are impleaded as the second respondent in the respective writ petitions. They approached the Labour Court by invoking its jurisdiction under

Section 2-A (2) of the Industrial Disputes Act, alleging that they are governed by the provisions of Chapter-V of the Industrial Disputes Act (for short 'the Act') and that the writ petitioner had adopted unfair labour practices in removing them from service. Reference was made to various developments that have resulted in, industrial unrest. Their complaint was that the writ petitioner violated Section 25(N) of the Act.

At the instance of the petitioner, the Labour Court framed preliminary issue, as to whether the industrial disputes raised by the respective workmen, are maintainable under Section 2-A (2) of the Act. Through the impugned orders, the Labour Court answered the issue against the writ petitioner.

Sri B.Vijaysen Reddy, the learned counsel for the petitioner submits that the workmen absented from the work unauthorisedly and in terms of relevant provisions of law, the petitioner terminated their services, duly paying the compensation payable to them. He contends that the Labour Court erred in passing the impugned orders, holding that the petitions are maintainable under Section 2-A (2) of the Act and proceeding on the assumption that there was termination of the workmen from the service.

The learned Government Pleader for labour, on the other hand, submits that as long as it is not disputed that the workmen were employed with the petitioner, it cannot be said that the petitions were not maintainable. He contends that the merits of the matter can be gone into at the regular trial of the matter.

The workmen raised disputes, before the labour Court, aggrieved by the termination of services. The petitioner entered appearance, on receiving notice. At the instance of the petitioner, the Labour Court framed a preliminary issue, viz., whether the petition under Section 2-A (2) of the Industrial Disputes Act are maintainable at the instance of the workmen, after they received compensation on retrenchment, whether they were estoped from raising such disputes. In a way it can be said that the question itself was not properly framed. While, the first part of it squarely falls in the ambit of maintainability, the second part relates to the adjudication of the matter on merits. The maintainability of the petition under Section 2-A (2) of the Act would exclusively depend upon the existence or otherwise of the relationship between the employer and the employee, between the parties to the dispute. The second part of the issue framed by the Labour court namely, whether the workmen were estoped from raising the dispute after receiving termination benefits, would be in the realm of

adjudication of the matter on merits.

The record discloses that the workmen were very much on the rolls of the petitioner establishment and that they were struck off from the rolls, may be on certain grounds of misconduct. Once it has emerged that the workmen were on the rolls of the petitioner, it cannot be said that the petitions under Section 2-A (2) of the Act are not maintainable. Therefore, the view taken by the Labour Court, to the effect that the petitions are maintainable, cannot be found fault with. This Court does not find any ground to interfere with the findings of the Labour Court on the preliminary issue.

It is true that certain vague and general observations were made as to the factum of termination etc. Such questions need to be answered by the Labour Court, after recording the evidence of both the parties and on appreciation of the respective contentions.

Hence, the writ petitions are dismissed. The Labour Court is, however, directed to adjudicate the matter un-influenced by any observations made by it, on merits, in the orders under challenge. The parties shall be entitled to lead evidence and put forward all contentions in support of its plea.

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28.12.2005

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